

# WEINER LAW GROUP<sup>LLP</sup>



629 Parsippany Road  
Parsippany, New Jersey 07054  
P (973) 403-1100 F (973) 403-0010  
[www.weiner.law](http://www.weiner.law)

**LAWRENCE M. BERKELEY**  
**Partner**

[lmberkeley@weiner.law](mailto:lmberkeley@weiner.law)

August 5, 2022

**Via Electronic Filing**

Clerk, United States District Court  
Martin Luther King Building  
& U.S. Courthouse  
50 Walnut Street, Room 4015  
Newark, NJ 07101

**Re: Girgis, Mervat v. Costco Wholesale Corporation, et al.**  
**Docket No.: HUD-L-2118-20**  
**Our File No.: COST-163**

Dear Sir/Madam:

Enclosed please find Petition for Removal on behalf of Defendant, Costco Wholesale Corporation. Please file same. By copy of this letter, we are advising our adversary of this Petition.

Thank you for your courtesy in this regard.

Respectfully submitted,

  
LAWRENCE M. BERKELEY

Enclosures.

cc: Clerk, Superior Court of New Jersey, Hudson County (via electronic filing)  
Leslee Schwartz, Esq. (via electronic filing)

**Weiner Law Group LLP**

Lawrence M. Berkeley

Attorney ID No: 7706

629 Parsippany Road

Parsippany, New Jersey 07054

Telephone (973) 403-1100

[LMBerkeley@weiner.law](mailto:LMBerkeley@weiner.law)

Attorneys for **Defendant, Costco Wholesale Corporation**

Our File No. COST-163

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

**MERVAT GIRGIS**

Plaintiff,

vs.

**COSTCO WHOLESALE CORP.,  
JOHN/JANE DOE, MANAGER OF  
COSTCO ON 7/7/20, and/or JOHN DOES  
1-10** (being fictitious person unknown at this  
time) and/or **ABC CO. 1-10** (being fictitious  
business entities whose identities are  
unknown at this time), **RD  
MANAGEMENT LLC** and/or **JANE  
DOES 1-10** (being fictitious persons  
unknown at this time), and/or **DEF CO. 1-10**  
(being fictitious business entities whose  
identities are unknown at this time)

Defendants,

**CIVIL ACTION NO.:**

**PETITION FOR REMOVAL**

Petitioner, Costco Wholesale Corporation, by its attorneys, Weiner Law Group, LLP, respectfully petitions the United States District Court for the District of New Jersey as follows:

1. This case was commenced on June 28, 2022 in the Superior Court of New Jersey, Law Division, Hudson County. Suit is identified in the Superior Court as Girgis, Mervat v. Costco Wholesale Corporation, et al. Docket No. HUD-L-2118-22. (See Exhibit A).

2. Costco Wholesale Corporation was not served with a copy of the Complaint filed on

June 28, 2022.

3. Plaintiff then filed a First Amended Complaint on July 14, 2022 in the Superior Court of New Jersey, Law Division, Hudson County. (See Exhibit B)

4. Costco Wholesale Corporation first received a copy of the First Amended Complaint on August 2, 2022, when Plaintiff caused a copy to be served upon Costco's general liability claims department. (See Exhibit B).

5. The filing of this Petition for Removal is timely because it is filed within thirty days of the date Costco Wholesale Corporation first received notice of the lawsuit.

6. Plaintiff's Complaint in the Superior Court of New Jersey, Law Division, Hudson County, asserts damages of a non-specified amount. Plaintiff allegedly sustained injuries as a result of a slip and fall incident in which she sustained serious and permanent injuries at the Costco warehouse located in Bayonne, New Jersey. As such, Defendant Costco Wholesale Corporation believes the amount in controversy exceeds \$75,000, exclusive of interest and costs.

7. Costco Wholesale Corporation is informed and believes that Plaintiff is an individual citizen of the State of New Jersey.

8. Defendant/petitioner, Costco Wholesale Corporation, is a Washington corporation and its principal place of business is 999 Lake Drive, Issaquah, Washington 98027.

9. Upon information and belief, defendant RD Management LLC is a New York Corporation that has a principal place of business located in New York. (See Exhibit C).

10. Therefore, complete diversity exists among the parties.

11. Costco has no knowledge regarding whether RD Management LLC has been served. It has not made an appearance, filed an answer, or made contact with Costco Wholesale Corporation. Costco Wholesale Corporation has no way of obtaining RD Management LLC's consent to remove. In Lewis v. Rego Co., 757 F.2d 66 (3d Cir. 1985), the Third Circuit held that

stating “no entry of appearance has yet been made on behalf of [defendant]” is sufficient to bring it within the non-service exception to the requirement to obtain consent from all defendants prior to seeking removal. Lewis v. Rego Co., 757 F.2d 66, 68–69 (3d Cir. 1985).

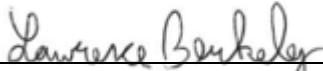
12. Another exception to obtaining consent is that the other defendant is a nominal party. See Michaels v. State of N.J., 955 F. Supp. 315, 319 (D.N.J. 1996). It is Costco Wholesale Corporation’s position that RD Management LLC is a nominal party to Plaintiff’s allegations against Costco and as such, whether or not RD Management LLC provides consent is of no moment.

13. Accordingly, this action is removable to this Court pursuant to 28 U.S.C. § 1441.

**WHEREFORE**, Petitioner, Costco Wholesale Corporation, Defendant in the action described herein, which is currently pending in the Superior Court of the State of New Jersey, Law Division, Hudson County, Docket No. HUD-L-2118-22, prays that this action be removed therefrom to this Court.

WEINER LAW GROUP LLP  
**Attorney for Defendant, Costco Wholesale Corp.**

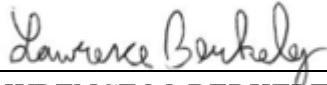
Dated: August 5, 2022

BY:   
LAWRENCE M. BERKELEY, ESQ.  
(LMB-7706)

I certify that a true copy of the Complaint filed in the Superior Court of the State of New Jersey, is annexed hereto as Exhibit A, a copy of the Summons and First Amended Complaint filed in the Superior Court of the State of New Jersey is annexed hereto as Exhibit B, and the contact information from RD Management LLC's website is annexed hereto as Exhibit C.

WEINER LAW GROUP LLP  
**Attorney for Defendant, Costco Wholesale Corp.**

Dated: August 5, 2022

BY:   
LAWRENCE M. BERKELEY, ESQ.  
(LMB-7706)